

State of Missouri  
Office of Secretary of State

Case No. AP-10-18

IN THE MATTER OF:

FARMINGTON INVESTMENT CORPORATION;  
AND THOMAS TERRY,

Respondents.

Serve Farmington Investment Corporation at:  
794 Market Street  
Farmington, Missouri 63640

Serve Thomas Terry at:  
3514 Griffith Road  
Farmington, Missouri 63640

**FINAL ORDER TO CEASE AND DESIST AND ORDER  
IMPOSING CIVIL PENALTIES AND AWARDING COSTS  
AND RESTITUTION**

On September 14, 2011, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), by and through Assistant Commissioner, Mary Hosmer, submitted a Petition for Final Order to Cease and Desist and Payment of Restitution, Civil Penalties, and Costs (the "Petition"). After reviewing the Petition, the Commissioner issues the following findings of facts, conclusion of law and order:

**PROCEDURAL BACKGROUND**

1. On May 28, 2010, Mary S. Hosmer, Assistant Commissioner for the Securities Division and on behalf of the Enforcement Section submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Civil Penalties, Costs, and Restitution Should Not Be Imposed (the "C&D Petition") in the above-styled matter.
2. On June 2, 2010, the Commissioner issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties and Costs Should not be Imposed against Respondents (the "C&D Order").
3. On July 2, 2010, Respondent Terry, through his attorney, submitted a Request For Hearing to the Commissioner.
4. Respondent Farmington Investment Corporation ("FIC") failed to request a hearing within the time allowed by Section 409.6-604, RSMo. (Cum. Supp. 2009).
5. On July 14, 2010, the Commissioner issued an order setting a hearing in this matter for Respondent Terry on October 6, 2010.

6. From August 2010 to February 2011, the hearing was continued at the request of Respondent Terry and/or the Enforcement Section.
7. On March 30, 2011, the Enforcement Section, through Ms. Hosmer, submitted an Amended Petition for Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed (the "Amended C&D Petition").
8. On April 12, 2011, the Commissioner issued an Amended Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not Be Imposed against Respondents (the "Amended C&D Order"). A copy of this Order was sent to both Respondents.
9. On April 20, 2011, Respondent Terry filed a Waiver of Right to Hearing on the Amended C&D Order.
10. On March 30, 2011, the Amended C&D Petition addressed to FIC at 794 Market Street, Farmington, Missouri 63640, was received and signed for by Trish Norden, however, the envelope was then returned to the Securities Division unopened and marked "Return to Sender, Unable to forward."
11. The Amended C&D Order addressed to FIC at 794 Market Street, Farmington, Missouri 63640, was received on May 3, 2011 by Thomas Terry for FIC.
12. On August 12, 2011, a compliance auditor with the Securities Division spoke with Tammy Albertina ("Albertina"). Albertina is the current owner of FIC. Albertina agreed to accept service of the Amended C&D Order via email. Albertina provided Albertina's email as [tammyalbertina@yahoo.com](mailto:tammyalbertina@yahoo.com). On August 12, 2011, the compliance auditor emailed the Amended C&D Order to Albertina.
13. Respondent FIC failed to request a hearing on the Amended C&D Order within the time allowed by Section 409.6-604, RSMo. (Cum. Supp. 2009).
14. In July 2011, the Enforcement Section received victim impact statements from several FIC investors, and included copies with the Petition.
15. In the Petition, the Enforcement Section requested a Final Order to Cease and Desist as to Respondent Terry and Respondent FIC.
16. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2009).
17. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent Terry for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2009).
18. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent FIC for multiple violations of Section 409.4-402(d), RSMo. (Cum. Supp.

2009).

19. In the Petition, the Enforcement Section requested that the Commissioner issue an order imposing a civil penalty in the amount of ten thousand dollars (\$10,000) against Respondent Terry for multiple violations of Section 409.5-501(2), RSMo. (Cum. Supp. 2009).
20. In the Petition, The Enforcement Section requested that the Commissioner issue an order requiring each Respondent, jointly and severally, to pay restitution in the amount of one million ninety-seven thousand three hundred forty dollars and seventy-five cents (\$1,097,340.75).
21. In the Petition, the Enforcement Section requested that the Commissioner issue an order requiring each Respondent, jointly and severally, to pay the costs of the investigation in this matter in the amount of four thousand eight hundred seventy-five dollars (\$4,875).

### **FINDINGS OF FACT**

22. The Commissioner adopts and incorporates the Findings of Fact, paragraphs 1 – 39, in the Amended C&D Order.

### **CONCLUSION OF LAW**

23. The Commissioner adopts and incorporates the Conclusions of Law in the Amended C&D Order paragraphs 50 – 58 and 64 – 67 as to Respondent Terry.
24. The Commissioner adopts and incorporates the Conclusions of Law in the Amended C&D Order paragraphs 50 – 54 and 59 – 63 as to Respondent FIC.
25. This Order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003.

## **Order**

**NOW, THEREFORE**, it is hereby **ORDERED** that:

- A. The Amended Cease and Desist Order entered in Case Number AP-10-18 on April 12, 2011, is **FINAL**.
- B. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), Respondent Terry shall pay a civil penalty in the amount of ten thousand dollars (\$10,000) to the State of Missouri for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2009). This amount shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Order. The Secretary of State shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. Respondent Terry shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- C. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), Respondent FIC shall pay a civil penalty in the amount of ten thousand dollars (\$10,000) to the State of

Missouri for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2009). This amount shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Order. The Secretary of State shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. Respondent FIC shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.

- D. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), Respondent Terry shall pay a civil penalty in the amount of ten thousand dollars (\$10,000) to the State of Missouri for multiple violations of Section 409.5-501(2), RSMo. (Cum. Supp. 2009). This amount shall be made payable to the State of Missouri and paid within thirty (30) days of the date of this Order. The Secretary of State shall forward these funds to the state treasury for the benefit of county and township school funds as provided in Article IX, Section 7 of the Constitution of Missouri. Respondent Terry shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- E. Pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2009), Respondent Terry and Respondent FIC shall pay, within thirty (30) days from the date of this Order, restitution in the amount of one million ninety-seven thousand three hundred forty dollars and seventy-five cents (\$1,097,340.75) for the amount of actual damages caused by Respondents' conduct arising from violations of Sections 409.3-301, 409.4-402, and 409.5-501, RSMo. (Cum. Supp. 2009). Respondent Terry and Respondent FIC shall be jointly and severally liable for this amount. This amount shall be made payable to the Missouri Secretary of State's Investor Restitution Fund, and the Commissioner will take reasonable and necessary actions to distribute such funds to those persons injured by the acts and violations referenced herein. Respondent Terry and Respondent FIC shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- F. Pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2009), Respondent Terry and Respondent FIC shall pay, within thirty (30) days from the date of this Order, the additional sum of four thousand eight hundred seventy-five dollars (\$4,875) as reimbursement for costs of the investigation and administration of this matter. Respondent Terry and Respondent FIC shall be jointly and severally liable for this amount. This amount shall be made payable to the Missouri Secretary of State's Investor Education and Protection Fund. Respondent Terry and Respondent FIC shall deliver this payment to the Securities Division, 600 West Main Street, P.O. Box 1276, Jefferson City, Missouri 65102.
- G. Pursuant to Section 409.6-604(f), RSMo. (Cum. Supp. 2009), this matter shall be referred to the Missouri Attorney General's Office to collect the restitution, penalties and costs described in the Order, as necessary. In the event of such referral, priority in collection shall be given to recovery of monies for the restitution ordered under paragraph E, above. Once such collection efforts result in the full satisfaction of paragraph E, priority shall be given to recovery of monies for the civil penalties ordered under paragraphs B, C, and D, above.
- H. Respondents shall pay their own costs and attorney's fees with respect to this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2011.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of September, 2011, copies of the foregoing Final Order to Cease and Desist in the above styled case was **mailed by certified U.S. Mail, return receipt requested to:**

Tammy Albertina  
Farmington Investment Corporation  
794 Market Street  
Farmington, Missouri 63640

**and mailed by regular U.S. Mail to:**

Lowell D. Pearson  
Husch Blackwell Sanders LLP  
235 East High Street, Suite 200  
P.O. Box 1251  
Jefferson City, Missouri 65102

COUNSEL FOR RESPONDENT  
THOMAS TERRY

John Hale  
Specialist